

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

In the matter of:

AMERICAN POSTAL WORKERS UNION
(UNITED STATES POSTAL SERVICE)

and

LOUIS MAZUREK, AN INDIVIDUAL

Case 5-CB-150339

SCOTT ALVIN FONTAINE, AN INDIVIDUAL

Case 5-CB-150853

MOTION TO APPOINT A SETTLEMENT JUDGE

Respondent American Postal Workers Union, AFL-CIO, in accordance with Section 102.35(B) of the Board's rules and regulations, asks the Chief Administrative Law Judge to appoint a settlement judge. Neither Counsel for the General Counsel nor the individual Charging Parties objects to granting this motion.

This case is an unusual one and amenable to resolution. It is briefly summarized as follows. In a dispute that began in 1996 over contracting out of Associate Office Infrastructure work, an arbitrator "direct[ed] the Postal Service to make the bargaining unit whole in the amount of \$8.64 million." The arbitrator said: "This is an appropriate remedy both in terms of making the bargaining unit whole and providing a meaningful remedy for the Postal Service's failure to comply with important provisions of Article 32.1.B," which is part of the subcontracting clause of the collective bargaining agreement. The APWU maintains that no specific employees were harmed by the violation. By agreement between the APWU and the Postal Service, the Postal Service paid \$1,056.71 to 7149 employees in the classifications of employees who were qualified to perform the work and who were on the rolls on December 11,

2014 (the date of the award), for a total amount paid to employees of \$7,554,419.79 and the balance of \$1,085,580.21 was paid to the APWU. (The APWU subsequently distributed the above amount several employees who were inadvertently overlooked.) The APWU contends that the award permitted it to retain a portion of the award and that doing so was in the interest of the bargaining unit. The complaint alleges that retaining approximately \$1 million of the award was arbitrary and the Respondent therefore violated Section 8(b)(1)(a) (the duty of fair representation); and that the Respondent was obliged to distribute the entire amount of the award to members of the bargaining unit.¹

The Respondent believes that, by working in good faith and employing diligence and creativity, a resolution of this case is likely.

Respectfully submitted,

MURPHY ANDERSON PLLC

/s/ Anton Hajjar

Anton Hajjar
1401 K St., NW
Suite 310
Washington, D.C. 20005
(p) (202) 223-2620
(f) (202) 223-8651
ahajjar@murphyllc.com

¹ The allegation that the Respondent violated its duty of fair representation by distributing money to those in specified classifications who were on the rolls as of the date of the award were dismissed and the dismissals upheld by the Office of Appeals.

CERTIFICATE OF SERVICE

I certify that the foregoing motion to appoint a settlement judge was electronically filed on September 19, 2016, through the Board's website, is available for viewing and downloading from the Board's website, and will be sent by means allowed under the Board's Rules and

Regulations to the following parties:

Chad Horton
Counsel for the General Counsel
Region 5, National Labor Relations Board
Chad.Horton@nlrb.gov

Louis Mazurek
P.O. Box 681
Norfolk, VA 23501-0681
loujm@yahoo.com

Scott Alvin Fontaine, Jr.
2210 Ritchie Road
Forrestville, MD 20747
sfon2000@yahoo.com

Attorney for the Respondent